

**§ 48.4221-5**

**26 CFR Ch. I (4-1-11 Edition)**

- ..... (4) Vessels employed in the fisheries or whaling business.  
 ..... (5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered:

I understand that if the articles are used for any purpose other than as stated in this certificate, or are resold or otherwise disposed of, I must report such fact to the manufacturer. I understand that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except that (i) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and (ii) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

I understand that the fraudulent use of this certificate to secure exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. I also understand that I must be prepared to establish by satisfactory evidence the purpose for which the article was used.

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Address)

**§ 48.4221-5 Tax-free sale of articles to State and local governments for their exclusive use.**

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(4) and this section, to a State or local government for the exclusive use of such State or local government. See paragraph (b) of this section for the meaning of the term “State or local government”. An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale is made directly to a State or local government for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a State or local government for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold. A sale of an article to a State or local govern-

ment for resale is not considered to be a sale for the “exclusive use” of the State or local government, within the meaning of section 4221(a)(4), and, therefore, such sales may not be made tax free. Such sales are not exempt regardless of whether the resales are made to government employees, or the fact that the article is an item of equipment the employee is required to possess in carrying out his duties. For example, pistols or revolvers may not be sold tax free to a State or local government for resale to its police officers. See section 6416(b)(2)(C), and paragraph (b)(3) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a State or local government.

(b) *State or local government.* The term “State or local government” includes any State, the District of Columbia, and any political subdivision of any of the foregoing.

(c) *Evidence required in support of tax-free sales to States or local governments.*

(1) The evidence required in support of a tax-free sale to the State or local government shall, except as provided in paragraph (c)(2) of this section, consist of a certificate, executed and signed by an officer or employee authorized by the State or local government to execute and sign the certificate. If it is impracticable to furnish a separate certificate for each order or contract because of a frequency of purchases, a certificate covering all orders between given dates (such period not to exceed 12 calendar quarters) will be acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the manufacturer as provided in section 6001 and the regulations thereunder. The certificate shall be in substantially the following form:

**EXEMPTION CERTIFICATE**

(For use by States and local governments (section 4221(a)(4) of the Internal Revenue Code))

(Date) \_\_\_\_\_, 19\_\_\_\_.

I hereby certify that I am \_\_\_\_\_  
 (Title of Officer) of \_\_\_\_\_ (State or local government) that I am authorized to execute this certificate; and that:

Internal Revenue Service, Treasury

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(CHECK APPLICABLE TYPE OF CERTIFICATE)

\_\_\_\_\_ the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

\_\_\_\_\_ all orders placed by the purchaser for the period commencing \_\_\_\_\_ (Date) and ending \_\_\_\_\_ (Date) (period not to exceed 12 calendar quarters), are, or will be, purchased from \_\_\_\_\_ (Name of manufacturer) for the exclusive use of \_\_\_\_\_ (Governmental unit) of \_\_\_\_\_ (State or local government).

I understand that the exemption from tax in the case of sales of articles under this exemption certificate to a State, etc., is limited to the sale of articles purchased for its exclusive use. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

(2) A purchase order, provided that all of the information required by paragraph (c)(1) of this section is included therein, is acceptable in lieu of a separate exemption certificate.

(d) *Resale of articles purchased tax free by a State or local government.* If articles purchased tax free for the exclusive use of a State or local government are prior to use by the State or local government resold under circumstances that do not amount to an exclusive use by the State or local government (such as tires that are resold by a volunteer fire department to volunteer firemen), the parties responsible in the State or local government are required to inform the manufacturer, producer, or importer from whom the articles were purchased that they were disposed of in a manner that did not amount to an exclusive use by the State or local government. A willful failure to supply the manufacturer, producer, or importer with the information required by this subparagraph will subject responsible parties to the penalties provided by section 7203.

[T.D. 7536, 43 FR 13522, Mar. 31, 1978, as amended by T.D. 8036, 50 FR 29963, July 23, 1985; T.D. 8659, 61 FR 10463, Mar. 14, 1996]

**§ 48.4221-6 Tax-free sales of articles to nonprofit educational organizations.**

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(5) and this section, to a nonprofit educational organization for its exclusive use. See paragraph (b) of this section for the meaning of the term “nonprofit educational organization”. An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale of an article by the manufacturer is made directly to a nonprofit educational organization for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a nonprofit educational organization for its exclusive use even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(D), and paragraph (b)(4) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a nonprofit educational organization.

(b) *Nonprofit educational organization.* The term “nonprofit educational organization” means an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an “educational organization” as one that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), provided the primary function of such school is the presentation of formal instruction and provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.